

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KILLEEN, AMENDING CHAPTER 32, ARTICLE I, MUNICIPAL DRAINAGE UTILITY SYSTEM, OF THE OFFICIAL CODE OF ORDINANCES OF THE CITY OF KILLEEN, TEXAS, PROVIDING FOR CHANGES IN DRAINAGE FEES; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Killeen has declared the application and enforcement of municipal drainage utility system regulations to be necessary for the preservation and improvement of water quality and the promotion of the public health, safety and general welfare of the community; and,

**WHEREAS**, the Texas Local Government Code, chapter 551 authorizes the City of Killeen to regulate, protect and control the pollution of streams, drains and watersheds under the City's jurisdiction; and,

**WHEREAS**, the TCEQ has established regulations under 30 Texas Administrative Code §205 requiring the City of Killeen to operate the City's municipal separate storm sewer system in accordance with TPDES General Permit No. TXR040000 (MS4 Permit); and,

**WHEREAS**, the City of Killeen adopted a Drainage Master Plan which encompasses evaluations of existing drainage system issues, a process for prioritizing drainage system capital improvement projects and a conceptual design for proposed projects; and,

**WHEREAS**, the City of Killeen contracted with Chang Patel & Yerby and NewGen to calculate the average amount of impervious cover per residential parcel within the city limits of Killeen and the corresponding rate model based on impervious cover; and,

**WHEREAS**, the Drainage Utility rate structure shall provide the necessary revenue to support proposed drainage system improvements and best management practices identified in the City's MS4 Permit; and,

**WHEREAS**, a financial analysis was performed to develop a fee structure that will generate the required program revenue to further implement the recommendations of the Drainage Master Plan and best management practices in the MS4 Permit in accordance with Local Government Code, Chapter 552; and,

**WHEREAS**, the City of Killeen finds that basing the drainage fee structure on impervious cover estimates and calculations is fair and reasonable and that the revised fee structure provides a reasonably equitable rate distribution between residential and non-residential benefited properties based on an Equivalent Residential Unit;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS:**

**SECTION I.** That Chapter 32, Article I, OF THE City of Killeen Code of Ordinances is hereby adopted to read as follows:

ARTICLE I. - MUNICIPAL DRAINAGE UTILITY SYSTEM

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Sec. 32-7. - Categories of developed use.

A drainage fee is imposed upon each developed lot and parcel with structural improvements within the city for drainage services and facilities provided by the city. For purposes of imposing the drainage fee, all benefited property shall mean an improved lot or tract to which drainage service is made available under this chapter categorized as "residential property" and "non-residential property." Non-residential property includes any property that is not described as residential property in this Article.

~~A. "Residential property" shall mean any property platted or used for residential purposes that is within zoning district "A-R1" agricultural single-family residential district, district "R-1" single-family residential district, district "R1-A" single-family garden home, district "RM-1" residential modular home single-family district, district "RT-1" residential townhouse single-family district, district "R-2" two-family residential district, district "R-3," "R-3F," or "R-3A" multifamily residential districts, district "R-MP" mobile home and travel trailer park district, or district "R-MS" manufactured housing subdivision, under sec. 31, art. IV of the City of Killeen code of ordinances.~~

~~B. "Non-residential property" shall mean a developed lot or parcel used for something other than residential purposes that is not identified in sec. 32-7 A. For purposes of this ordinance, "non-residential property" shall include but not be limited to property that is within zoning district "B-1" professional business district, district "B-2" local retail district, district "B-3" local business district, district "B-4" business district, district "B-5" business district, district "B-C-1" general business and alcohol sales district, district "RC-1" restaurant and alcohol sales district, district "B-DC" business day care district, district "M-1" manufacturing district, or district "M-2" heavy manufacturing district, under sec. 31, art. IV of the City of Killeen code of ordinances, and any other non-residential zoning districts that may be added under sec. 31, art. IV of the City of Killeen code of ordinances.~~

Sec. 32-8. - Findings related to calculation of the drainage.

The city council finds that it is reasonable and equitable to assume that each water ~~or~~ wastewater or solid waste utility customer in the service area is a user of a drainage-benefited property pursuant to chapter 552, subchapter C, Texas Local Government Code, as amended. The city council further finds that drainage attributable to a detached single-family residential land use is relatively uniform, and that non-single-family residential properties, including land used for multi-family properties, mobile home parks, commercial and industrial properties, have higher runoff factors and higher pollutant contributions than single-family residential development.

Sec. 32-9. - Calculation of drainage fees.

Every property owner and city service customer shall be responsible for paying the drainage fee for the benefited property. Such properties are charged monthly based on the amount of impervious area on a parcel of property.

Except as otherwise stated in this Article, the drainage fee is calculated using the following formula:

Equivalent Residential Unit (ERU) x drainage charge = Monthly Bill

ERU means a unit of measurement of impervious surface area determined as the average residential house structure or a garage, driveway and other impervious area within the parcel. The current ERU for the City of Killeen is based on 3,027 square feet of impervious cover. The ERU for any multi-family or nonresidential property shall not be less than 1.

The drainage charge is set at \$6.00 per month per ERU.

A. The following schedule shall be used to determine the applicable drainage fee:

(1) *Residential property*:-

(a) ~~each~~Each detached single-family residential property receiving utility service from the city shall be considered one ERU. (1 ERU x \$6.00 = \$6.00- drainage fee per month)

(b) ~~each~~Each duplex residential property receiving utility service from the city shall be considered one ERU. and pay a(- drainage fee of \$9.89 1 ERU x \$6.00 = \$6.00 drainage fee per month)

1. The monthly drainage fee shall be calculated; based on the number of dwelling units, for the entire property and shall be paid by the property owner. The City shall place the monthly drainage fee on a master meter account billed to the owner or the owner's agent.

2. At its sole discretion, the city may prorate the monthly drainage fee among the separate meters in relation to the number of dwelling units served by the meters; provided the customer provides adequate assurance for payment, documentation of the number of dwelling units served by each meter, and documentation by all owners and/or tenants.

(c) The number of ERUs for each multi-family residential property (three or more units) receiving utility service from the city shall be individually determined by dividing the actual impervious cover surface area of the property by 3,027 rounded up to the nearest whole number.

1. The monthly drainage fee shall be calculated for the entire property and shall be paid by the property owner. The City shall place the monthly drainage fee on a master meter account billed to the owner or the owner's agent.

2. At its sole discretion, the city may prorate the monthly drainage fee among the separate meters in relation to the number of dwelling units served by the meters; provided the customer provides adequate assurance for payment, documentation of the number of dwelling units served by each meter, and documentation by all owners and/or tenants.

(d) Each mobile home park property receiving utility service from the city shall have one ERU per mobile home pad or trailer pad and shall pay \$6.00 per month per ERU.

1. The monthly drainage fee for the entire mobile home park shall be placed on a master meter within the property, or, at the city's sole discretion, may be billed separately to the property owner or the owner's agent.

2. For individually metered trailer pads, the city may, at its sole discretion, bill the drainage fee on the individually metered accounts; provided the customer provides adequate assurance for payment, documentation of the number of dwelling units served by each meter, and documentation by all owners and/or tenants.

(2) *Non-residential property*:-

(a) The number of ERUs for each non-residential property receiving utility service from the city shall be individually determined by dividing the actual impervious surface area of the property by 3,027 rounded up to the nearest whole number. ~~a lot or parcel less than or equal to 10,000 square feet in total land area receiving utility service from the city shall pay a drainage fee of \$8.30 per month.~~

1. In the case of multiple meters on a single parcel, the drainage utility fee shall be calculated for the entire property and shall be paid by the property owner. The City shall place the drainage fee on a master meter account billed to the owner or the owner's agent.

2. (b) — a lot or parcel greater than 10,000 square feet in total land area, and less than or equal to 50,000 square feet in total land area receiving utility service from the city shall pay a drainage fee of \$17.51 per month. At its sole discretion, the city may prorate the drainage fee among the separate meters in relation to the area served by the meters provided the customer provides adequate assurance for payment, complete documentation of impervious area pro rata calculations, and documentation of concurrence by all owners and/or tenants.

~~(c) — a lot or parcel greater than 50,000 square feet in total land area, and less than or equal to 100,000 square feet in total land area receiving utility service from the city shall pay a drainage fee of \$26.28 per month.~~

~~(d) — a lot or parcel greater than 100,000 square feet in total land area, and less than or equal to 200,000 square feet in total land area receiving utility service from the city shall pay a drainage fee of \$52.56 per month.~~

~~(e) — a lot or parcel greater than 200,000 square feet in total land area, and less than or equal to 350,000 square feet in total land area receiving utility service from the city shall pay a drainage fee of \$96.36 per month.~~

~~(f) — a lot or parcel greater than 350,000 square feet in total land area, and less than or equal to 700,000 square feet in total land area receiving utility service from the city shall pay a drainage fee of \$140.16 per month.~~

~~(g) — a lot or parcel greater than 700,000 square feet in total land area, and less than or equal to 1,000,000 square feet in total land area receiving utility service from the city shall pay a drainage fee of \$192.72 per month.~~

~~(h) — a lot or parcel greater than 1,000,000 square feet in total land area receiving utility service from the city shall pay a drainage fee of \$306.59 per month.~~

B. The following shall be exempt from the provisions of any rules or ordinances adopted by the city pursuant to chapter 552, subchapter C, Texas Local Government Code, as amended:

- (1) property with proper construction and maintenance of a wholly sufficient and privately owned drainage system;
- (2) property held and maintained in its natural state, until such time that the property is developed and all of the public infrastructure constructed has been accepted by the city for maintenance; and

(3) a subdivided lot, until ~~a structure has improvements have~~ been built on the lot and a certificate of occupancy, certificate of completion, or final green tag has been issued by the city.

~~C. Real property owned by the city and used for municipal purposes shall be exempt from the provisions of section 32-9 of this chapter.~~

DC. The city council may review the foregoing schedule of fees at any time and may, by resolution, increase or decrease or otherwise alter the fee structure upon a determination that such increase or decrease is warranted.

ED. The city council finds and determines that the drainage fees have been established in accordance with the provisions of the chapter 552, subchapter C, "Municipal Drainage Utility Systems" of the Texas Local Government Code, as amended.

Sec. 32-10. - Billing and payment; penalties.

A. *Billing and payment* .

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(5) Drainage fees shall be billed with the city's water ~~and~~ wastewater, and solid waste billings and shall be identified separately on the bill as a drainage fee. Delinquent fee bills shall be mailed to the customer at the address at which the owner receives other city utility services, or if no other city utility services are rendered, to any known address of the owner.

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Sec. 32-11. – Stormwater Credit Program.

Non-residential properties may apply for and the city may grant to such users credit against that portion of their respective drainage fees attributable to the ERU based on their voluntary use of stormwater best management practices ("BMPs") to offset the impacts of their property on stormwater runoff (the "stormwater credit program" or "program"). Stormwater credits are based on stormwater BMPs that exceed the applicable requirements Chapter 26 and Chapter 32 Article IV of the Killeen Code of Ordinances, or an approved development agreement with the City. The stormwater credit is applied as a percent discount to regular monthly drainage fees and will be administered pursuant to the city's stormwater credit program. The City will develop and amend as necessary a stormwater credit program manual to assist in administration of this Article.

Sec. 32-12. – Administration of Stormwater credit program.

A. The director of public works will be responsible for the overall administration of the program including, but not limited to, the following:

- (1) Accepting, reviewing, and approving or disapproving applications;
- (2) Certifying the total amount of the BMP credit;
- (3) Amending the drainage account records to reflect changes in the BMP credit;
- (4) Receiving and reviewing annual self-inspection reports; and
- (5) Requesting independent inspections as appropriate to ensure proper maintenance.

B. Any property owner or city service customer aggrieved by a decision of the director of public works regarding (1) a determination as to whether a certain parcel of property is exempt from the drainage fee or (2) the application of the stormwater credit program to a certain parcel of property may appeal the determination of the director of public works to the City Manager, or designee. The property owner

or city service customer shall file an appeal in writing with the director of public works within ten days from the date of the decision being appealed.

The written appeal filed by the property owner or city service customer shall identify the facts supporting (1) any claim that the property in question is exempt from the levy of a drainage charge or (2) any claim that the property in question is entitled to more stormwater credits than approved by the director of public works.

The burden of proof shall be on the appellant to demonstrate that the property is exempt from the drainage fee or the amount of the stormwater credit was not calculated according to the applicable schedule of stormwater credits or the guidelines established for determining stormwater credits.

#### Sec. 32-13. - Application for Stormwater credit.

All required attachments indicated in the forms or specified above must be included for the application to be considered complete. The director of public works will, following review of the complete application, determine the appropriate amount of the stormwater credit to which a property is entitled pursuant to the city's stormwater credit program and subject to this article. Such stormwater credit will be valid for a period of time, as set forth in section 32-14, below, subject to continuing compliance of the stormwater credit options on the property in question with the stormwater credit program.

#### Sec. 32-14. - Expiration of stormwater credit, renewal application and annual reporting.

A. *BMPs with annual renewal.* A stormwater credit approved by the director of public works pursuant to the city's stormwater credit program utilizing one of the following BMPs shall be valid for a period of one year from the date of approval, at which time the right to receive the stormwater credit will expire:

- (1) Voluntary community cleanup program (onsite or downstream); and
- (2) Parking lot sweeping.

For the continuation of the foregoing stormwater credits, a renewal application must be filed annually prior to the expiration of the then-current stormwater credit year approved by the director of public works. Annual self-reports and maintenance records together with any other documentation identified by the stormwater credit program will be required to be submitted with the renewal application annually prior to expiration to document program compliance for the preceding year. If the complete renewal application is not received by the city by the expiration date, the stormwater credit will automatically expire and the full amount of the drainage fees collected for the property will be charged.

Timely filing of the complete renewal application with the city will stay the expiration of the stormwater credit for the property in question until such time as the director of public works reviews and approves, or disapproves, the renewal application. The director of public works may increase, decrease, or terminate the amount of the stormwater credit a particular property is eligible to receive pursuant to the city's stormwater credit program based upon the director of public works' review and evaluation of the renewal application, the annual self-report, and any and all other information then available. Failure to provide any required information in support of the renewal application shall result in the denial of the stormwater credit for the property.

B. *BMPs of continuous duration.* A stormwater credit approved by the director of public works pursuant to the city's stormwater credit program for one of the following BMPs shall be valid from the date of approval and for so long as the BMPs are inspected, properly maintained, and remain compliant with the applicable program requirements:

- (1) 5% for Voluntary community cleanup program (onsite or downstream);

- (2) 5% for Parking lot sweeping program;
- (3) 10% for Rainwater Harvesting;
- (4) 10% for Bioretention/Rain Garden;
- (5) 10% for Riparian Preservation;
- (6) 20% for Dry Extended Detention Basin;
- (7) 40% for Retention Pond; and
- (8) 40% for Green Roofs.

Notwithstanding the continuous duration of the foregoing BMPs, the property owner or city service customer shall cause the BMPs to be inspected annually and maintained in accordance with the city's stormwater credit program.

Sec. 32-15. - Types of stormwater credit.

Non-residential properties may be eligible for stormwater credit against drainage fees up to a maximum total combined stormwater credit per property of 40 percent. Types of stormwater credit are available up to the maximum percentage identified for the following onsite stormwater credit options.

A. Maximum percentage of stormwater credit allowed per BMP.

- (1) 5% for Voluntary community cleanup program (onsite or downstream);
- (2) 5% for Parking lot sweeping program;
- (3) 10% for Rainwater Harvesting;
- (4) 10% for Riparian Preservation;
- (5) 10% for Bioretention/Rain Garden;
- (6) 20% for Multi-stage Detention;
- (7) 40% for Retention Pond; and
- (8) 40% for Green Roofs.

Each stormwater credit option listed above is given to encourage voluntary practices that will benefit the drainage utility.

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**SECTION II.** That all ordinances or resolutions or parts of ordinances or resolutions in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

**SECTION III.** That should any section or part of any section, paragraph or clause of this ordinance be declared invalid or unconstitutional for any reason, it shall not invalidate or impair the validity, force or effect of any other section or sections or part of a section or paragraph of this ordinance.

**SECTION IV.** That the Code of Ordinances of the City of Killeen, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

**SECTION V.** That this ordinance shall be effective as of February 1, 2020.

**PASSED AND APPROVED** at a regular meeting of the City Council of the City of Killeen, Texas, this \_\_\_\_ day of \_\_\_\_\_, 2019, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 *et seq.*

**APPROVED**

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JOSE L. SEGARRA, MAYOR

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
LUCY C. ALDRICH, CITY SECRETARY

\_\_\_\_\_  
Kathryn H. Davis, CITY ATTORNEY

ORD \_\_\_\_\_

Date: \_\_\_\_\_